

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM THOMAS PENGELLY,

Defendant.

CR 15–37–BU–DLC–4

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on May 18, 2016. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

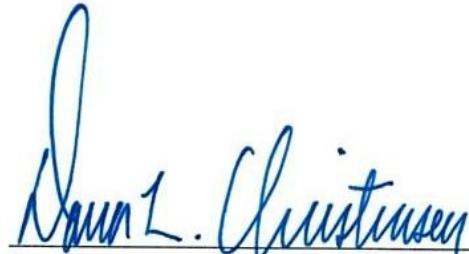
Judge Lynch recommended this Court accept William Thomas Pengelly’s guilty plea after Pengelly appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to Use of a Communication

Facility in Committing, Causing, or Facilitating the Commission of a Felony under the Controlled Substances Act in violation of 21 U.S.C. §§ 843(b) as set forth in the Superseding Information. In exchange for Defendant's plea, the United States has agreed to dismiss the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 159), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that William Thomas Pengelly's motion to change plea (Doc. 125) is GRANTED and William Thomas Pengelly is adjudged guilty as charged in the Superseding Information.

DATED this 7th day of June, 2016.



Dana L. Christensen, Chief District Judge
United States District Court